



Tax & Legal Highlights

Kosovo

Entry into Force of Administrative Instruction on Transfer Pricing

The new Administrative Instruction MoF-No 02/2017 on Transfer Pricing is the first general guideline that regulates related party transactions in accordance with Article 27 of the Law on Corporate Income Tax No. 05/L-029.

Whilst Law No. 05/L-029, which is in force since 2015, stipulates the requirement for compliance with the arm's length principle for related party transactions, it nonetheless provided only limited compliance guidance for taxpayers.

On the other hand, the new Administrative Instruction on Transfer Pricing has been crafted according to the OECD Transfer Pricing Guidelines and is the first measure to provide extensive details on the proper procedures to document the arm's length nature of related party transactions.

A taxpayer involved in controlled transactions is required to prepare and submit sufficient information to verify that the terms of its controlled transactions are in line with the arm's length principle.

Upon request from the Tax Administration of Kosovo (TAK), transfer pricing documentation must be made available within thirty (30) days of receiving the request.

Transfer pricing documentation prepared according to the requirements set out in the Code of Conduct of the European Union (EU) and its annexes on transfer pricing documentation for associated companies, is deemed to meet the requirements set in this Administrative Instructions.

Taxpayers involved in controlled transactions, including loan surpluses, which in the reporting period in total exceed EUR 300,000.00, are required to complete and submit to TAK a form for notifying annual controlled transactions (Annex No. 2 of the Administrative Instruction).

In determining the total value of the transactions, income and expenses cannot be counter weighted (Net Income cannot be used). The annual notice has to be submitted within the 31st of March of the following year, in conjunction with the annual financial statements and corporate income tax return.

Signing of the Fiscal Package 2.0

The Kosovo Government has approved the Fiscal Package 2.0 that contains twenty two (22) measures to improve the business environment and make domestic producers competitive within the Balkans region.

On 17 July 2017, after much deliberation, the Kosovo government finally approved the anticipated Fiscal Package 2.0 that outlines a series of measures to be implemented in order to improve business competitiveness within the Balkans region.

Among the measures noted, the Fiscal Package foresees the following measures to be implemented within the month of July:

- Removal of Excise tax on mazut fuel for production purposes;
- Issuance of sub-legal act regarding special conditions for the identification, control and marking of flour that is placed in free circulation in the Republic of Kosovo;
- Issuance of sub-legal act for certain conditions under which losses from the breakdown, evaporation or loss of the weight of oil and its products are recognized, and consideration of the possibility of recognizing weight loss for other products as well;
- Creating a transparency portal in order to increase efficiency of business requests for different licenses (transport, export, exploitation etc).

The other additional measures of the Fiscal Package 2.0 will be outlined in future Deloitte Tax & Legal Highlights according to their implementation and entry into force.

Forthcoming Deadline for Public Debt Forgiveness

The deadline for benefiting from public debt forgiveness is fast approaching, and the Tax Administration is advertising the set deadline of 01 September 2017.

As per the Law on Public Debt Forgiveness Nr. 05/L-043, supplemented by Law Nr. 05/L-119, business entities and natural persons can benefit from public debt forgiveness for all unsettled debts with the TAK for the period until 31st December 2008 if they fulfill the relevant criteria as set out by the aforementioned legislation.

In addition to total debt forgiveness for the period until 31 December 2008, entities will also benefit from the forgiveness of fines, penalties, interest and any other debts arising from non-payment of the basic debt for the period 01 January 2009 to 31 December 2014.

To benefit from debt forgiveness, entities must perform the full debt settlement for the period from 01 January 2009 until 31 December 2014. The full payment of the principal can be made until 01 September 2017.

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